



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/750,581

12/29/2003

Robert E. Higashi

H0005015-0760(1100.123710

8573

128 7590 12/21/2007
HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

EXAMINER

ECHELMAYER, ALIX ELIZABETH

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

12/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/750,581	Applicant(s) HIGASHI ET AL.	
	Examiner Alix Elizabeth Echelmeyer	Art Unit 1795	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection:

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: the arguments have not been found to be convincing.


Applicant begins by arguing the location of the aperture "surface", stating that, based the specification, the surface is the inner vertical surface. This limitation is not required in the claim. However, if the metal current collector of Pratt et al. is considered the "electrode" of the instant invention, then every part of the "electrode", or current collector of Pratt et al., is metal, therefore the inner vertical parts of the apertures contain electrically conducting material. If the entire aperture extending through both the plastic and metal is considered, and the metal part of the aperture is recognized as being electrically conducting at its surface, than the limitation requiring that "at least part of" the aperture surface being conductive is met. The claim does not require that the entire surface is conductive.

As for the location of the adhesive, Applicant argues that the passage from Pratt et al. disclosing the use of adhesive, cited on pages 10-11 of the arguments, teaches that the adhesive is used in the areas of the plastic film where gaps in the MEA are formed. This is not convincing. The sentence from Pratt et al. states that "the laminated structure comprising the MEA disposed between the two current collector assemblies must be held together." One method to hold the MEA and current collectors together is by the use of adhesives at the interface. This interface is clearly the interface between the MEA and the current collectors, discussed in the previous sentence of the passage. Since the MEA of Pratt et al. is analogous to the "membrane" of the instant invention, and the current collector is analogous to the "electrode" of the instant invention, this meets the limitation of the claim. Applicant's argument that "it would seem clear that the 'interfaces' ... would likely correspond to the interface that is 'beyond the perimeter of the MEA' ... " (page 11) is not convincing. One of ordinary skill in the art would read the above discussed passage from Pratt et al. and see that the interface is between the MEA and the current collector, and would not look to other passages within the reference that discuss sealing and not lamination, as the passages cited by Applicant discuss.

Next, Applicants argue that the limitations of claim 29 are not met because Pratt et al. do not disclose the method of the claim. The examiner disagrees. All of the parts of the claims (e.g. the "electrode" layers, membrane and adhesive) are found in the reference, and are assembled in the manner described in the claim. Since all of the parts are in the reference, they are "provided" The arguments beginning on page 12 discuss how similar articles may be manufactured by distinct process, for example in the semiconductor fabrication industry. Applicant discusses how something may be created by additive or subtractive processes. The examiner believes that, for example, if the apertures were made by either additive or subtractive processes (although she is not sure how an aperture would be made by an additive process), it would still be "formed" as required by the claim. Additionally, it is unclear how "additive" is analogous to "provided". Even if something is made by "subtractive" processes, if that something was used in a product, it would still be "provided" to the product. The arguments to the aperture surface and adhesive layer have been discussed.

Applicant next discusses the limitations of claim 47 that are allegedly not found in the Pratt et al. reference, namely the "aperture surface." This has been addressed, above.

As for claim 54, the arguments are not persuasive. If the conductive feeds were extended as suggested in the rejection, they would connect to the conductive parts 44. One of ordinary skill in the art would certainly not make conductive connections that did not connect to the fuel cell, since that would render the fuel cell inoperable. It is of the opinion of the examiner that one of ordinary skill in the art would recognize that any conductive contacts would actually have to be connected to the electricity-generating fuel cell.


SUSY TSANG-FOSTER
SUPERVISORY PATENT EXAMINER